



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

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| JIMMY SHORT, | § |
| Petitioner, | § |
| | § |
| vs. | § CIVIL ACTION NO. 3:05-1170-HFF-JRM |
| | § |
| RICHARD E. SMITH; and HENRY | § |
| MCMASTER, Attorney General of the State of | § |
| SC, | § |
| Respondents. | § |

ORDER ADOPTING THE REPORT AND RECOMMENDATION OF THE
MAGISTRATE JUDGE, GRANTING RESPONDENTS' MOTION FOR SUMMARY
JUDGMENT, AND DISMISSING THE PETITION
WITHOUT AN EVIDENTIARY HEARING

This case was filed as a Section 2254 action. Petitioner is proceeding *pro se*. The matter is before the Court for review of the report and recommendation (report) of the United States Magistrate Judge in which he suggests that Respondents' motion for summary judgment be granted and that the petition be dismissed without an evidentiary hearing. The report is made in accordance with 28 U.S.C. § 636 and Local Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *See Matthews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a *de novo* determination of those portions of the report to which specific objection is made, and the Court may

accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the report on August 22, 2005. Petitioner failed to file any objections to the report. In the absence of objections, the Court is not required to give any explanation for adopting the report. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983).

After a thorough review of the report and the record in this case pursuant to the standards set forth above, the Court adopts the report and incorporates it herein. Therefore, it is the judgment of this Court that Respondents' motion for summary judgment will be **GRANTED** and that the petition will be **DISMISSED** without an evidentiary hearing.

IT IS SO ORDERED.

Signed this 31st day of October, 2005, in Spartanburg, South Carolina.

/s/ Henry F. Floyd
HENRY F. FLOYD
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

Petitioner is hereby notified that he has a right to appeal this Order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.